



28 AUG 2006

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In re Application of	:	
GREEN, et al.	:	DECISION ON RENEWED
Serial No.: 10/517,987	:	
PCT No.: PCT/CA03/00934	:	PETITION UNDER
Int. Filing Date: 20 June 2003	:	
Priority Date: 20 June 2002	:	37 CFR 1.47(a) AND
Atty Docket No.: 7865-218 MIS:jb	:	
For: COLOUR REDUCTION IN CANOLA	:	37 CFR 1.137(b)
PROTEIN ISOLATE	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.137(b) and Renewed Petition Under 37 C.F.R. 1.47(a)" filed 05 May 2006.

BACKGROUND

On 28 February 2006, applicant was mailed a decision dismissing applicant's petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 05 May 2006, applicant filed the present renewed petition under 37 CFR 1.137(b) and 37 CFR 1.47(a) accompanied by a petition for a one-month extension of time and payment of the appropriate extension of time fee. Applicant's renewed petitions are therefore timely filed.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.47(a)

As detailed in the decision mailed 28 February 2006, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1-3 as to non-signing inventor Lei Xu.

Applicant has presently submitted declarations executed by joint inventors Brent E. Green and Kevin I. Segall executed on behalf of joint inventor Radka Milanova. Applicant previously submitted declarations executed by Brent E. Green, Kevin I. Segall and Radka Milanova with the signature space for Lei Xu left blank, as well as, declarations executed by Brent E. Green and Kevin I. Segall executed on behalf of Lei Xu. The combination of these declarations prefects the requirements of 37 CFR 1.497(a)-(b).

Applicant's original petition included an e-mail from Ms. Margo Osinski detailing her firsthand attempts to obtain the signature of Radka Milanova on the declaration being executed on behalf on Lei Xu. It is clear from her execution of the original declaration that Ms. Milanova understood which application she was being asked to execute. Ms. Osinski states that she sent the documents to Ms. Milanova and confirmed receipt by her through e-mail. To date Ms. Milanova has not returned the declaration executed on behalf of Lei Xu. As such, her silence constitutes a refusal to execute on behalf of Lei Xu and it is proper to grant applicant's renewed petition at this time.

II. Renewed Petition Under 37 CFR 1.137(b)

As applicant has supplied the proper reply in the form of a granted renewed petition under 37 CFR 1.47(a) it is proper to grant applicant's renewed petition under 37 CFR 1.137(b) at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a) are **GRANTED**.

The application has an international filing date of 20 June 2003 under 35 U.S.C. 363, and will be given a date of **05 May 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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In re Application of
GREEN, et al.
Serial No.: 10/517,987
PCT No.: PCT/CA03/00934
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For: COLOUR REDUCTION IN CANOLA
PROTEIN ISOLATE

Dear Mr. Xu:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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